

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES COMPANY)	
FOR A CERTIFICATE OF CONVENIENCE AND)	CASE NO. 92-005
NECESSITY TO CONSTRUCT A SCRUBBER ON UNIT)	
NO. 1 OF ITS GHENT GENERATING STATION)	

O R D E R

On April 20, 1992, Kentucky Industrial Utility Customers ("KIUC") filed a motion to strike limited portions of the direct testimony filed by the Attorney General's Office, Utility and Rate Intervention Division ("AG"). Specifically, KIUC moves to strike those portions of the testimony of AG witness David H. Kinloch beginning at page 9, line 19 through page 12, line 18 and beginning at page 15, line 25 through page 16, line 5 on the issue of an appropriate rate design for the recovery of capital costs expended to construct a scrubber at Ghent Unit No. 1. KIUC argues that pursuant to KRS 278.020(1) and Commission regulations promulgated thereunder, the relevant issues to be considered in a certificate case include a review of the total cost of the facilities to be constructed but not the ultimate allocation of those costs among the various customer rate classes. Such rate design issues are, in KIUC's opinion, reserved for either a rate case or an application for an environmental surcharge in accord with newly enacted Senate Bill 341.

On April 27, 1992, the AG filed a response in opposition to KIUC's motion to strike. The AG claims that the need for a scrubber at Ghent Unit No. 1 cannot be considered in isolation from the rate design issues so identified and, in any event, the Commission has the discretion to determine the weight ultimately afforded such testimony. In addition, the AG argues that Senate Bill 341 does not specifically provide intervenors with an opportunity to address such rate design issues and this certificate case may be the only opportunity to do so.

Kentucky Utilities Company ("KU") filed on May 1, 1992 a response in support of KIUC's motion to strike. KU concurs with KIUC's opinion that the provisions in KRS Chapter 278 that authorize the issuance of a certificate of convenience and necessity are separate and distinct from those that authorize changes in rates. KU also notes that Senate Bill 341 establishes a specific regulatory scheme for the recovery of costs associated with certain environmental compliance expenditures and the evidentiary record in this case is insufficient for the Commission to determine the appropriate cost allocation between demand and energy components of electric rates. KU further argues that there is no statutory authority for the Commission to grant or deny a certificate to construct utility facilities based on findings of how the construction costs will be recovered from particular rate classes. KU concludes by acknowledging that its pending application does not seek the establishment of an environmental surcharge as authorized by Senate Bill 341 and that if such authorization is to be requested, a new application will

be filed. On May 4, 1992, KIUC filed a reply to the AG's response.

Based on the pleadings and being advised, the Commission hereby finds that the proffered testimony on rate design issues is not relevant to the issues now pending in KU's application to construct a scrubber at Ghent Unit No. 1. While the total cost of the construction project is certainly a relevant issue when considering both KU's need for a new facility and the absence of wasteful duplication, the manner by which those costs will ultimately be distributed to individual rate classes is not now relevant. Contrary to the AG's assertion, Senate Bill 341 as enacted allows for the opportunity for intervention and specifically mandates that the Commission hold a hearing to consider the proposed surcharge as applied to individual rate classes. Accordingly, this rate design issue will become relevant and ripe for investigation at such time as KU files an application for an adjustment of rates pursuant to KRS 278.180 or Senate Bill 341.

Also pending is a motion filed by KU on March 31, 1992 requesting relief from the Commission's February 25, 1992 and March 17, 1992 Orders requiring KU to disclose certain projected financial information. KU has objected to providing the requested information on the grounds that disclosure to the Commission, even on a confidential basis, would trigger a public disclosure due to requirements established by the Securities Exchange Commission and the New York Stock Exchange. KU subsequently filed additional

information on this issue in response to the Commission's April 15, 1992 Order.

The Commission has reviewed KU's pending motion and the record evidence on the financial issue and finds that the existing evidence is sufficient to enable the Commission to fully investigate this issue. While we express no opinion on the substance of KU's argument that a confidential filing with this Commission would trigger a public disclosure, we will nevertheless modify our prior orders due to the absence of a substantial need for the requested information.

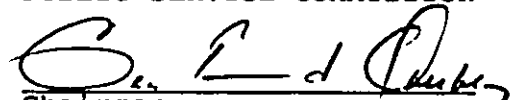
IT IS THEREFORE ORDERED that:

1. KIUC's motion to strike limited portions of the prefiled direct testimony of AG witness Kinloch be and it hereby is granted.

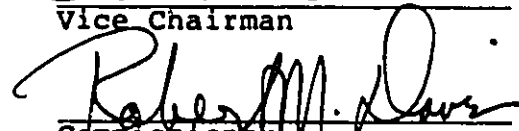
2. KU's March 31, 1992 motion requesting relief from the Commission's February 25, 1992 and March 17, 1992 Orders be and it hereby is granted on the grounds discussed above.

Done at Frankfort, Kentucky, this 19th day of May, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director, Acting